IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Bail Appl..No. 7640 of 2006()

CRIME NUMBER NOT KNOWN OF MADUKARI POLICE STATION, COIMBATORE

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: PETITIONER

P.USHA DEVI,
PROPRIETRIX, M/S.BELL FOODS (MARINE DIVISION),
PALLICHAL ROAD, KOCHI-5.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS: COMPLAINANT AND STATE

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1. STATION HOUSE OFFICER,
MADUKARI POLICE STATION,
COIMBATORE.

2. CIRCLE INSPECTOR OF POLICE,
PALLURUTHY.

3. CITY POLICE COMMISSIONER,
COCHIN CITY, ERNAKULAM.

4. ASSISTANT COMMISSIONER OF POLICE,
MATTANCHERRY.

5. M/S.SRI.MAHALIAMMAN FIANANCE,
REP. BY ITS MANAGING DIRECTOR, 84,
TAGORE STREET, TATABAD NO.1, SHIVANANDA COLONY,
COIMBATORE-12.

BY PUBLIC PROSECUTOR SRI.P.RAVEENDRA BABU

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/07/2007 ALONG WITH BA.NO.7638 & 7639 OF 2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3694 of 2006

Dated this the 5th day of January, 2007

ORDER

The petitioner is the driver cum owner of a lorry. The said vehicle was allegedly involved in illicit transportation of river sand. The petitioner was arrested and the lorry was seized by the police. The lorry was produced before the learned Magistrate. The same was released to the petitioner as per order dated 27.09.2006, copy of which is produced as Annexure-A4. The release was made subject to conditions. The registration certificate was also placed before the learned Magistrate. The Magistrate while releasing the vehicle made an endorsement in the registration certificate which reads as follows:

> "This lorry is involved in Crime No.118/06 of Oonnukal Police for having transported river sand illegally and is released as per order in C.M.P.No.2055 of 2006 of JFCM Kothamangalam."

2. The petitioner has come to this Court aggrieved by the endorsement made thereon. The learned counsel for the petitioner contends that there is no specific provision of law enabling or authorising the learned Magistrate to make such an entry in the registration certificate. The provisions of the Motor Vehicles Act, which deals with the registration certificate do not confer on the learned Magistrate any power to make such an endorsement. The

learned counsel for the petitioner further submits that the order passed by the learned Magistrate directing the release (Annexure-A4) does not also contain a specific direction/stipulation that such an endorsement shall be made. The endorsement has been made without specifically hearing the petitioner on that aspect. It was only when the registration certificate was released to the petitioner from the court that the petitioner came to know that such an endorsement has been made.

3. Objection is also raised against the nature of the endorsement made. No final conclusion has been reached by the learned Magistrate. It was only an interim release of the vehicle. It is not even mentioned that the vehicle is only "allegedly involved in the crime". This is also unjust and unfair, it is submitted. In these circumstances, it is prayed that a direction may be issued to delete the said endorsement made in the registration certificate.

4. The learned Director General of Prosecutions has appeared and made his submissions. The learned D.G.P submits that there is no stipulation in the Motor Vehicles Act or Rules or under the Code of Criminal Procedure which clothe the learned Magistrate with powers to make such an endorsement.

5. The report of the learned Magistrate was called for. The learned Magistrate also reports that the endorsement has been made not on the basis of any specific stipulation in the Motor Vehicles Act

or Rules or under the Code of Criminal Procedure, but to prevent misuse of the vehicle and to convey to the person who would come across the registration certificate in future that the vehicle is involved in a crime and released to the petitioner. Primarily the report of the learned Magistrate would indicate that such an endorsement was made to prevent the use of the vehicle and to bring the fact to the notice of authorities who come to see the registration certificate in future.

6. I am in agreement with the learned counsel for the petitioner and the learned D.G.P that no specific stipulation of law can be traced where such a power to make an endorsement can be located. However the question is whether the powers under Section 482 Cr.P.C can or need be invoked. Admittedly the vehicle was released on interim custody to the petitioner and the fact that the learned Magistrate has noted the said fact in the registration certificate in order to convey that fact to persons who may deal with the registration certificate later is, according to me, not a sufficient reason to justify or warrant the invocation of the powers under Section 482 Cr.P.C. In making such endorsement, which makes it clear that it was an interim release of the vehicle to the petitioner consequent to its involvement in Crime No.118 of 2006, no failure or miscarriage of justice can be said to have resulted. However I must

hasten to observe that it is not necessary or invariable that such endorsement must be made by the learned Magistrate in the registration certificate in respect of the release of the vehicle.

7. With the above observations, this Crl.M.C is, dismissed.

(R.BASANT, JUDGE)

rtr/-